SUPREME COURT, U.S.
MAY 16 1991
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No. 90-1534

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1990

GIL HOLLINGSWORTH,

Petitioner,

v.

TEXAS, ET AL.,

Respondents,

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES SUPREME COURT

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Can a judgment obtained without due process of law be valid and enforceable?

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Petitioner Hollingsworth submits this reply to brief in opposition to writ of certiorari.

STATEMENT OF THE CASE

Petitioner Hollingsworth was not afforded an administrative hearing before the General Land Office of the

State of Texas prior to the filing of the instant lawsuit.

REASONS FOR GRANTING THE WRIT

A. THIS CASE PRESENTS FEDERAL QUESTIONS.

Petitioner Hollingsworth was not afforded due process of law as required by the Fifth and Fourteenth Amendments of the United States Constitution and the Texas Constitution by not giving petitioner a hearing as provided by statute (APTRA § 6252-13a, Section 13.(a)).

B. JURISDICTION

The trial court, The Third Court of Appeals of Texas, and the Supreme Court of Texas lack jurisdiction to even hear this matter until an administrative hearing is held in this instant case. Jurisdiction cannot be waived and according to a recent Texas Supreme Court Case (Pan American Life Insurance Company v. Erbauer Construction Company,

Tex 1991, 791 S.W.2d 146) jurisdiction can be raised on appeal.

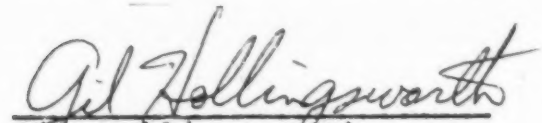
Even if jurisdiction is ultimately a question of law or one of statutory construction it should be submitted to the agency for the initial decision of the question of jurisdiction. Arguments for and against jurisdiction over a matter should be evaluated by the agency having responsibility for operating the statutory machinery (J. M. Huber Corporation v. Denman 367 F.2d 104.)

CONCLUSION

Petitioner has no control over the fact that respondents started out of the wrong gate in this instant case. Petitioner is due a hearing before the General Land Office of the State of Texas. Simply stated, Respondents cannot get to where they want to be from where they started. For the foregoing

reasons, a writ of certiorari should be granted.

Respectfully submitted,



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